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ABSTRACT

This overview of state day care licensing procedures answers eight questions basic to an understanding of licensing policies in the nation. The questions are: (1) Why is day care licensed? (2) How is day care defined for licensing purposes? (3) Which states license day care services? (4) Which departments of state government license day care? (5) What procedures are involved in licensing? (6) What facilities are covered by state licensing laws? (7) Is there a licensing fee? (8) How can day care licensing become more responsive to community needs? The appendix contains two tables. The first lists day care licensing by state and the second lists the chief statutory provisions interfering with protection of children through day care licensure. (WY)

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BASIC FACTS ABOUT LICENSING OF DAY CARE

(An overview prepared by DCCDCA)

FOREWARD

For those trying to establish child care centers, licensing can be a complex and arduous process. In response to many requests for clarification of legislative intent and licensing procedures, the Day Care and Child Development Council of America, Inc. has prepared this overview of state day care licensing. This statement is necessarily general; no one state has been singled out as an example of licensing policies and process.

Most states retain consultant staff to help local groups with all phases of program development. Direct inquiry to the state licensing agency may provide the needed technical assistance. In addition, the Council maintains a complete file of state licensing codes and regulations; further information in regard to specific states is available through this office.

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WHY IS DAY CARE LICENSED?

Communities came late to the realization that children cared for in groups outside of their homes fell into the area of public responsibility. Only after tragic stories began to appear in newspapers and magazines about the plight of neglected children did communities awake to their responsibilities in this area.

An outraged public demand for regulation of child care led states to adopt licensing as the method of assuring communities that the facilities in which children receive day care services meet minimum standards for their care and protection.

In order to rapidly provide protection for children, many day care licensing regulations were adopted on the basis of expediency rather than on a careful evaluation of the special nature of these programs and the unique needs these programs were designed to serve. Thus some of the requirements were adopted from hospital and restaurant licensing codes, foster home placement requirements, and other seemingly similar programs operating in the public interest. In general, licensing regulations mandated stringent environment conditions, consideration of basic health and nutrition standards, and provisions for play space and adult supervision.

Thus many states now find themselves with a licensing code that is inappropriate, antiquated, obscure, and unnecessarily difficult to administer and enforce. In addition, many states have discovered that where licensing regulations do provide for adequate facilities, they do not necessarily provide quality programs for children. Quality cannot be measured solely in terms of square footage of available space and acquisition of equipment. Quality must be measured by the ability of adults to develop and sustain meaningful relationships with children, and by the effectiveness of needed child and family services.

HOW IS DAY CARE DEFINED FOR LICENSING PURPOSES?

In general, licensing is required of any person, organization, or agency caring for a group of children outside of the child's own home on a regular basis for some part of the day. Licenses must be renewed on a periodic basis. Programs operated by departments of government are sometimes exempt from licensing. Day care licensing is usually required for the following service categories:

Family Day Care Home: Day care service in a family residence for five or fewer children, including those of the operator. Children of all ages can be accomodated in this setting.

Group Day Care Center: Day care service for more than five children, usually of preschool age (2-6). The number of children permitted in this setting depends upon the indoor and outdoor space,

toilet and kitchen facilities. Most states have basic health and safety requirements. Some require a minimum staff-child ratio and educational and social service program components.

Private Nursery School and/or Kindergarten: A service for preschool children that usually includes 4 and 5-year olds and sometimes enrolls 3-year olds two or three mornings a week. These centers function primarily for educational purposes. Many states require that these centers meet curriculum, equipment and teacher training standards established by the education department.

WHICH STATES LICENSE DAY CARE SERVICES?*

All states and all jurisdictions, with the exception of Guam, now license day care facilities. Such licensing is mandatory in all states except Louisiana, North Carolina, and Mississippi.

WHICH DEPARTMENTS OF STATE GOVERNMENT LICENSE DAY CARE?*

The State Welfare Agency is the day care licensing body in all states and jurisdictions except that:

The Health Department licenses all types of day care in Arizona, the District of Columbia, Kansas, and New Mexico.

The Health Department licenses group day care facilities and the Welfare Department licenses family day care facilities in Connecticut, Maryland, and Massachusetts; and

The Education Department is the licensing agency in New Jersey.

WHAT PROCEDURES ARE INVOLVED IN LICENSING?

Although the responsibility for the establishment of regulations, issuance of day care licenses, and on-going supervision of programs usually resides with one public agency, a number of other agencies also have requirements which are applied to any licensed day care facility. Therefore acquisition and maintenance of a day care license may require the approval of a number of different public authorities.

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* Sources of information for these sections: Women's Bureau; U.S. Department of Labor; National Council of Jewish Women; and the U. S. Children's Bureau.

FOR EXAMPLE:

Zoning Commission: Prior to the initial licensure, a special exception to zoning may be necessary. This special exception, sometimes called a "variance," is obtained by vote of a council or board of appeals after a public hearing.

Building Inspector: For purposes of health and safety, inspections by the electrical, plumbing, and general building inspectors may be required, particularly where renovations or new construction is involved. In some communities, there are both local building requirements and state building requirements.

Fire and Safety Marshalls: Inspections and approval for all aspects of safety and fire regulations are usually required annually. Ground level space with at least two exits from all rooms used by children is a general requirement, as are fire alarm systems, adequate fire extinguishers or sprinkler systems, and heavy insulation of all heating plants. In some areas, day care programs may not be conducted in frame buildings.

Department of Sanitation: Sanitarians are required to inspect kitchen and toilet facilities on a regular basis.

Health Department: Public health personnel require periodic evidence of adequate medical supervision for staff and children, and certification of freedom from disease.

Welfare Department: In many areas, the Welfare Department will purchase day care for persons who are receiving aid. In these cases, the Department will require careful records to be maintained which it periodically will inspect. In addition, the Welfare Department may require periodic inspection of facilities and interviews with personnel.

Department of Education: Some states require that the educational program be supervised and approved by the public education agency. Evidence of appropriate staffing, materials, and curriculum content requires periodic inspection and approval by this agency.

Department of Inspections and Licenses: In some areas, (although the regulatory function resides with another agency,) the license is issued by the Department of Inspections and Licenses. In those instances, periodic inspection and approval must be obtained by that agency as well as by the supervising agency.

WHAT FACILITIES ARE COVERED BY STATE LICENSING LAWS?*

Very few states have licensing laws which are comprehensive in their coverage of day care facilities. About ten states exclude nursery school and kindergartens. Several other states exclude these facilities when they offer services for short periods of time, generally less than four hours a day.

Five states--Nevada, New Jersey, Oregon, West Virginia, and Wisconsin--regulate only group day care and not family day care.

Seven states--Connecticut, Mississippi, Missouri, New Jersey, South Carolina, Tennessee, and Vermont--exclude day care facilities operated under religious auspices. Connecticut excludes facilities operated under recreational auspices. New Jersey excludes those facilities operated under the auspices of a fraternal society. In Delaware, facilities are excluded from coverage when operated by privately endowed agencies and in Pennsylvania when operated under the auspices of non-profit agencies.

The State of Washington exempts facilities in operation prior to 1957 if the agency does not seek or accept monies or assistance from any state or federal agency and is supported in part by an endowment or trust fund.

Arizona, Delaware, Hawaii, Missouri, Oklahoma, and Washington do not require the day care facility to be licensed if it is for educational, therapeutic, recreational, or medical purposes. Arizona also exempts facilities which claim to be operated for religious purposes.

There are many other gaps in the state licensing regulations. In Florida, only the three largest counties place day care facilities under the jurisdiction of the law. In Nevada, only facilities in the two largest counties are covered.

State licensing practices often vary with respect to the size of the facility, and, often, those serving fewer than 6 children are not required to be licensed.

IS THERE A LICENSING FEE?

Most states require annual renewal of the child care license. States vary from no charge to all to $50.00 per year. However, there may be significant expenditures involved in the initial licensing procedure even though there is no fee charged for the license itself. Required renovation and purchase of equipment are two possible areas of expense.

HOW CAN DAY CARE LICENSING BECOME MORE RESPONSIVE TO COMMUNITY NEEDS?

Families need quality child care services for their children. Children need quality child care services that will support and enhance their development. Communities need quality child care programs in order to meet their responsibility to citizens for the development of a healthy and progressive citizenery.

In many states the time has come for the community to join with the licensing authority to examine and evaluate the effectiveness of current licensing requirements and standards.

There are many problems and issues that need to be explored:

1. Are licensing requirements appropriate for children they are designed to serve?

2. Is there adequate consultant help so that quality programs can be initiated and maintained?

3. Is there a mechanism for progressive up-grading of programs?

4. Does the community provide resources for up-grading of programs.

These questions must be considered carefully. Priorities must be established so that regulation and supervision of child care services begins to be responsive to need. And the need is for quality programs appropriately developed and operated.

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APPENDIX A

DAY CARE LICENSING BY STATE

Group Day Care Facility (G) and Family Day Care Facility (F)

STATE	State Welfare Agency		Health Department		Department of Education		Voluntary Licensing Only
	G	F	G	F	G	F	
Alabama	x	x					
Alaska	x	x					
Arizona			x	x			
Arkansas	x	x					
Calofornia	x	x					
Colorado	x	x					
Connecticut		x	x				
Delaware	x	x					
District of Columbia			x	x			
Florida	x	x					
Georgia	x	x					
Hawaii	x	x					
Idaho	x	x					
Illinois	x	x					
Indiana	x	x					
Iowa	x	x					
Kansas			x	x			
Kentucky	x	x					
Louisiana	x	x					x
Maine	x	x					
Maryland		x	x				
Massachusetts		x	x	x			
Michigan	x	x					
Minnesota	x	x					
Mississippi	x	x					x
Missouri	x	x					
Montana	x	x					
Nebraska	x	x					
Nevada	x						
New Hampshire	x	x					
New Jersey					x		
New Mexico			x	x			
New York	x	x					
North Carolina	x	x					x
North Dakota	x	x					
Ohio	x	x					

APPENDIX A

DAY CARE LICENSING BY STATE

Group Day Care Facility (G) and Family Day Care Facility (F)

STATE	State Welfare Agency		Health Department		Department of Education		Voluntary Licensing Only
	G	F	G	F	G	F	
Pennsylvania	x	x					
Puerto Rico	x	x					
Rhode Island	x	x					
South Carolina	x	x					
South Dakota	x	x					
Tennessee	x	x					
Texas	x	x					
Utah	x	x					
Vermont	x	x					
Virginia	x	x					
Washington	x	x					
West Virginia	x						
Wisconsin	x						
Wyoming	x	x					
Virgin Islands	x	x					

SYMBOLS: G - group day care facility
F - family day care facility
Gc- group care
All day care licensure is by State Welfare agency unless the symbols H (for Health) and E (for Education) appear.

STATE			III. CHIEF STATUTORY PROVISIONS INTERFE
United States	G	F	EXCLUSIONS RELATED TO PURPOSE OF PROGRAM, NO.
Alabama	x	x	None
Alaska	x	x	None
Arizona	xH	xH	If purpose claimed is solely educational or r
Arkansas	x	x	None
California	x	x	None
Colorado	x	x	None
Connecticut	xH	xW	None
Delaware	x	x	If purpose claimed is for therapy, recreation
Dist. Columbia	xH	xH	None
Florida	x	x	Group care of infants under 3 yrs. of age
Georgia	x	x	Fewer than 3 children
Guam	No licensing at present - but planned		
Hawaii	x	x	Home caring for 1 child; if purpose is claime
Idaho	x	x	None
Illinois	x	x	None
Indiana	x	x	Family home may take 10 children
Iowa	x	x	No maximum number of children set for family
Kansas	xH	xH	
Kentucky	x	x	None
Louisiana	x		Children are unprotected if facilities do not
Maine	x	x	Homes caring for fewer than 3 children
Maryland	xH	xW	None
Massachusetts	xH	xW	Children over 7 yrs. of age in group day care
Michigan	x	x	None
Minnesota	x	x	None
Mississippi	x	x	Children are unprotected in any facilities not
Missouri	x	x	If purpose claimed is primarily education, rec
Montana	x	x	Homes caring for fewer than 3 chn; chn. over
Nebraska	x	x	Homes caring for 1 child or chn. of same famil
Nevada	x	o	Facilities caring for fewer than 5 children

INTERFERING WITH PROTECTION OF CHILDREN THROUGH DAY CARE LICENSURE				
AM, NO. OF CHN. IN CARE,	THEIR AGE, ETC.	EXCLUSIONS	RELATED TO AUSPICES OF DAY	CARE FACILITY
		None		
		None		
al or religious		None		
		None		
		None		
		None		
		Religious	and recreational auspices	
reation, education		Privately	endowed agencies	
		None		
age		All counties	except 3 largest with pop.	over 627,000
		None		
claimed to be educational				
		None		
		None		
		None		
family care		None		
		None		
		None		
do not choose to be licensed		None		
		None		
		None		
ay care				
		None		
		None		
ties not choosing to be	licensed	Religious	auspices	
ion, recreation, medical		Religious	auspices	
over 12 yrs; gc of infants permitted		None		
ne family		None		
ldren		Two largest	counties excluded	

(continued)

New Hampshire	x	x	None		
New Jersey	xE	o	Chn. under 2 and over 5 yrs	of age; homes caring	
New Mexico	xH	xH	None		
New York	x	x	Fewer than 3 chn; voluntary	certification only fo	
North Carolina	x	x	Chn. are unprotected in any	facility not choosing	
North Dakota	x	x	None		
Ohio	x	x	Family home may take 10 chn;	no requirements only	
Oklahoma	x	x	If purpose claimed is educational, recreational,		
Oregon	xH	o	Facilities caring for fewer	than 3 chn; children	
Pennsylvania	x	x	Fewer than 4 children subject to inspection not l		
Puerto Rico	x	x			
Rhode Island	x	x	Group care of children over	14; less than 4 hour	
South Carolina	x	x			
South Dakota	x	x	None		
Tennessee	x	x	Fewer than 6 children		
Texas	x	x	None		
Utah	x	x	Fewer than 3 children;over	14	
Vermont	x	x	Care of children from no more than two families		
Virgin Islands	x	x	Licensing statute and standards but no implementa		
Virginia	x	x	None		
Washington	x	x	If purpose claimed is primarily education, recrea		
West Virginia	x	o	No licensing authority for family day care homes		
Wisconsin	x	-	Fewer than 4 children		
Wyoming	x	x	Fewer than 2 children; group care of infants perm		

			None			
s caring for fewer than 4 children			Operated by fraternal society or church			
			None			
n only for chn. over 2 yrs.			None			
choosing to be licensed			None			
			None			
ents only guides			None			
ational, medical			Profit-making auspices			
children over 14			None			
ion not lincensure			None			
			Non-profit			
n 4 hour care			None			
			None			
			Religious auspices			
			None			
			Religious auspices			
			None			
			None			
amilies			None			
mplementation yet			Group care if religious auspices			
			None			
n, recreational			None			
re homes			If in operation 10 years in 1967			
			None			
ants permitted			None			